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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,247	05/09/2001	Michael T. Rossi	A7966	3007

7590 06/05/2002

SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC  
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EXAMINER

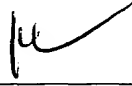
PAK, SUNG H

ART UNIT	PAPER NUMBER
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2874

DATE MAILED: 06/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/851,247	<b>Applicant(s)</b> ROSSI ET AL. 	
	<b>Examiner</b> Sung H. Pak	<b>Art Unit</b> 2874	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Drawings***

This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

### ***Information Disclosure Statement***

All the references submitted in the Information Disclosure Statement have been considered by the examiner.

### ***Specification***

The abstract of the disclosure is objected to because it is too long. According to the revised 37 CFR 1.72, the abstract is now limited to 150 words. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

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(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1-10, 13-14, 29-37, 40-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Risch et al (US 5,911,023).

Risch et al discloses an optical fiber cable with all the limitations set forth in the claims, including: an outer layer; at least one optical fiber disposed inside outer layer ("14" Fig. 6); a gel-swellaable material having density around 0.8-0.85 g/cc and water resistant gel positioned adjacent to each other and disposed between the outer layer and the optical fiber (Fig. 5, column 8 lines 24-29, tables 2 & 3 and column 10 lines 5-12); the gel-swellaable material being polyolefin or copolymers of polyethylene (column 9 lines 17-18). It is noted that the gel-swellaable portion may inherently have uneven thickness due to manufacturing variability. Therefore, such limitation is inherently disclosed by the reference.

Claims 1, 11-12, 29, 38-39 are rejected under 35 U.S.C. 102(e) as being anticipated by Risch et al (US 6,085,009).

Risch et al discloses an optical fiber cable with all the limitations set forth in the claims, including: an outer layer; at least one optical fiber disposed inside outer layer (Fig. 1); a gel-swellaable material and water resistant gel positioned adjacent to each other and disposed between the outer layer and the optical fiber (Fig. 1); wherein the gel-swellaable material swells more than 10% at 85 degrees Celsius (Fig. 3), and wherein the gel is a polyolefin oil based gel (abstract).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-24, 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Risch et al (US 5,911,023).

Risch et al discloses an optical fiber cable with all the limitations set forth in the claims as discussed above, except it does not disclose the use of optical fiber ribbons. However, optical fiber ribbons are well known and commonly used in the art. Fiber ribbons provide a well-known advantage over the individual fibers, because they allow for plurality of optical fibers to be organized in a smaller given space. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Risch et al to use fiber ribbons instead of individual fibers. It would have been desirable to have dense fiber optic cables.

Claims 15, 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Risch et al (US 6,085,009).

Risch et al discloses an optical fiber cable with all the limitations set forth in the claims as discussed above, except it does not disclose the use of optical fiber ribbons. However, optical fiber ribbons are well known and commonly used in the art. Fiber

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ribbons provide a well-known advantage over the individual fibers, because they allow for plurality of optical fibers to be organized in a smaller given space. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Risch et al to use fiber ribbons instead of individual fibers. It would have been desirable to have dense fiber optic cables.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sung H. Pak whose telephone number is (703) 308-4880. The examiner can normally be reached on Monday - Thursday : 6:30am-5:00pm.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7724 for regular communications and (703) 308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Sung H. Pak  
Examiner  
Art Unit 2874

sp  
May 22, 2002



Rodney Bovernick  
Supervisory Patent Examiner  
Technology Center 2800